



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

JUL 7 1982

Mr. James H. Lesar
Fensterwald and Associates
Suite 900
1000 Wilson Boulevard
Arlington, Virginia 22209

Dear Mr. Lesar:

This is in reference to Civil Action Number 81-2174 currently in litigation concerning your client, Mr. G. Robert Blakey, as Plaintiff, and the Department of Justice, et al., as Defendants.

Your client challenged the adequacy of the FBI's search with respect to his Freedom of Information Act request for a June 29, 1962, report captioned "The Criminal Commission." The explanation concerning this research has been addressed in the Affidavit of SA Douglass C. Ogden, dated May 21, 1982.

In addition, your client raised the issue of the FBI citing "in blanket fashion," exemptions (b)(7)(C) and (b)(7)(D) for deleted information in FBI report dated July 19, 1965, captioned, "La Casa Nostra."

Mr. Blakey contends that having seen these reports while a special attorney in the Organized Crime and Racketeering Section of the Justice Department, he is of the opinion that a "blanket excision" is unwarranted, inasmuch as it is his contention that most of the information came from electronic surveillance and that many of the principal subjects are now deceased.

Please be advised that symbol sources and information furnished by these sources were initially denied in total, inasmuch as symbol sources appearing in FBI documents are taken at face value by our Document Examiners as being individuals and not mechanical sources. There is no indication in these reports that distinguishes between the two.

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Subsequent to the filing of Plaintiff's Opposition to Motion of Defendant for Summary Judgment, a further review was conducted which determined that some symbol sources were in fact mechanical sources. Therefore, the report dated July 19, 1965, has been reprocessed and is being released with fewer deletions along with the report dated June 29, 1962, which was located subsequent to Plaintiff filing his Opposition to Motion of Defendant for Summary Judgment.

Your client is now receiving 114 pages from the report dated June 29, 1962, and 213 pages from the report dated July 19, 1965. Deletions were made in both reports and exemptions (b)(2), (b)(7)(C), (b)(7)(D) and (b)(7)(E) have been applied where appropriate. (See Form 4-694a, enclosed, for an explanation of these exemptions). Justifications for these deletions will be addressed in a future affidavit.

Your client's request for a waiver of fees has been considered in accordance with the provisions of Title 5, United States Code, Section 552 (a)(4)(A) which permits an agency to waive or reduce fees in the public interest when furnishing information is considered as primarily benefiting the general public. The principal question is whether release of the particular information which your client has requested will result in primary benefit to the general public. We have concluded that it will not and, therefore, your request for a waiver of fees is denied. In reaching this decision, a number of factors were considered, including the nature of information requested; the purpose for which the information is sought; the size of the public to be benefited; the likelihood that some tangible public good will be realized as a result of this release; whether disclosure is timely with regard to a matter of current public interest; its relevance to important legal, social or political issues; and whether the material is personal in nature or will serve only the private interests of the requester.

It has become a policy of this Bureau that in responding to FOIA requests wherein the documents to be released total less than 250 pages, no duplication fee is levied; therefore, your client was not charged for pages

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previously released to him. Pursuant to Title 28, Code of Federal Regulations, Sections 16.9 and 16.46, there is a fee of ten cents per page for duplication. Inasmuch as your client is now receiving 327 pages for which he was not previously charged, please submit a check or money order, payable to the Federal Bureau of Investigation in the amount of \$32.70.

Sincerely yours,

James K. Hall

James K. Hall, Chief
Freedom of Information-Privacy
Acts Section
Records Management Division

Enclosures (3)

1 - Mr. Nathan Dodell
Assistant United States Attorney
Washington, D.C.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b) (1) information which is currently and properly classified pursuant to Executive Order 12065 in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods
- (b) (2) materials related solely to the internal rules and practices of the FBI
- (b) (3) information specifically exempted from disclosure by statute (see continuation page)
- (b) (4) privileged or confidential information obtained from a person, usually involving commercial or financial matters
- (b) (5) inter-agency or intra-agency documents which are not available through discovery proceedings during litigation; documents, the disclosure of which would have an inhibitive effect upon the development of policy and administrative direction; or documents which represent the work product of an attorney-client relationship
- (b) (6) materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy
- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would: (A) interfere with law enforcement proceedings, including pending investigations; (B) deprive a person of the right to a fair trial or an impartial adjudication, or give one party of a controversy an undue advantage by exclusive access to such information; (C) constitute an unwarranted invasion of the personal privacy of another person; (D) reveal the identity of a confidential source or reveal confidential information furnished only by the confidential source; (E) disclose investigative techniques and procedures, thereby impairing their future effectiveness; and (F) endanger the life or physical safety of law enforcement personnel
- (b) (8) information collected by Government regulatory agencies from financial institutions
- (b) (9) geological and geophysical information, including maps, produced by private companies and filed by them with Government agencies.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d) (5) information compiled in reasonable anticipation of a civil action proceeding
- (j) (2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals, except records of arrest
- (k) (1) information which is currently and properly classified pursuant to Executive Order 12065 in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods
- (k) (2) investigatory material compiled for law enforcement purposes, other than criminal, which would reveal the identity of an individual who has furnished information pursuant to a promise that his identity would be held in confidence
- (k) (3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056
- (k) (4) required by statute to be maintained and used solely as statistical records
- (k) (5) investigatory material compiled solely for the purpose of determining suitability eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence
- (k) (6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process
- (k) (7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.